

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, *
Plaintiff *
v. *
VICTOR LOPEZ-HERNANDEZ, *
Defendant *
_____ *

Criminal No. 99-322 (PG)

SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

Comes now Victor Lopez-Hernandez, by his counsel, and respectfully states and prays:

On April 20, 2005, Mr. Lopez-Hernandez will be re-sentenced by this Honorable Court, pursuant to a decision by the Court of Appeals for the First Circuit in Appeal No. 01-1435. The background of the case is as follows:

On November 3, 1999, while serving a revocation of probation sentence at the Bayamon State Penitentiary since December 11, 1997, Mr. Lopez-Hernandez was arrested by the U.S. Marshalls, and he was taken to MDC Guaynabo, pursuant to an Indictment in the instant case.

Mr. Lopez-Hernandez pleaded guilty to Counts One and Five of the Indictment and the government recommended a term of imprisonment of 108 months, at the lower end of the guideline. The government also requested, pursuant to 18 U.S.C. § 3585 (b), that Mr. Lopez-Hernandez be given credit for any time spent in official detention prior to the date of commencement of the sentence, and it further requested the Court to include in its Judgment a recommendation that the Bureau of Prisons, if possible, to give credit to Mr. Lopez-Hernandez for any time spent in official detention, including in the custody of the Commonwealth of Puerto Rico, since this detention came as a result of the offense charged in Count One of the Indictment.

Plea Agreement, page 7, paragraph 14.

Mr. Lopez-Hernandez was sent to finish serving his state sentence On August 25, 2003, Mr. Lopez-Hernandez finished serving his state sentence, and he was brought to MDC Guaynabo by the U.S. Marshalls.

Mr. Lopez-Hernandez has observed an excellent behavior at both the State Penitentiary and at the Federal Institution, and he respectfully requests from this Honorable Court to expressly reflect in its Judgment the concurrent and coterminus character of the sentence, and that he be given credit for all the time he has spent in official custody; that is since November 3, 1999, when arrested by the federal authorities; or, if possible, since December 11, 1997, when he was arrested by the State authorities for the same offense charged in Count 1 of the Indictment, as previously requested by the government in the Plea Agreement..

WHEREFORE, defendant Victor Lopez-Hernandez respectfully requests from this Honorable Court to grant this motion.

Respectfully submitted, in San Juan, Puerto Rico, this 18th of April 2005.

S/ GUILLERMO MACARI

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CERTIFICATE OF SERVICE

I hereby certify that on 4/18/05, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record. At San Juan, Puerto Rico, this 18th of April 2005.

s/ GUILLERMO MACARI